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M&F, LLP Docket. No. 2976-4039US1**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Tim KEITH et al. Group Art Unit: To Be Assigned  
Serial No. : 09/834,597 Examiner: To Be Assigned  
Filed : April 13, 2001  
For : *Novel Human Gene Relating to Respiratory Disease, Obesity, and  
Inflammatory Bowel Disease*

**REQUEST FOR RECONSIDERATION FOR PETITION FILED UNDER  
37 C.F.R. §1.47(a)**

Assistant Commissioner of Patents  
BOX: DAC  
Washington, D.C. 20231

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JUL 24 2002

**OFFICE OF PETITIONS**

Sir:

This Request for Reconsideration for Petition Filed under 37 C.F.R. §1.47(a) is filed in response to the Decision Refusing Status under 37 C.F.R. §1.47(a) mailed March 19, 2002. Accompanying this Request are combined declaration and power of attorney documents executed by Tim Keith, Randall Little, Paul Van Eerdewegh, Josée Dupuis, Richard Del Mastro, Jason Simon and Kristina Allen on behalf of themselves and on behalf of non-signing joint inventor Sunil Pandit pursuant to 35 U.S.C. §116 and 37 C.F.R. §1.47(a). In view of the Request and executed declaration filed herewith, Applicants respectfully request reconsideration of their Petition under §1.47(a).

On November 26, 2001, Applicants filed a Petition under 37 C.F.R. §1.47(a) to request that the combined declaration and power of attorney in the application be accepted without the signature of Sunil Pandit, one of the eight joint inventors of the subject matter of the application, pursuant Rule 47(a). Accompanying the Petition was 1) a combined declaration and

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power of attorney executed by joint inventors Tim Keith, Randall Little, Paul Van Eerdewegh, Josée Dupuis, Richard Del Mastro, Jason Simon and Kristina Allen on behalf of themselves and also on behalf of the non-signing inventor Sunil Pandit; and 2) a Statement of Facts providing facts and exhibits in support of the need of the signing inventors to sign the declaration for this application on behalf of themselves and an omitted inventor who refuses to sign the declaration, after diligent effort in accordance with 37 C.F.R. § 1.47(a). Also filed was 1) a copy of the Notice to File Missing Parts of a Nonprovisional Patent Application, Filing Date Granted, mailed June 25, 2001 from the United States Patent and Trademark Office; 2) a response to the Notice to File Missing Parts; 3) a check for the surcharge of \$130.00 for the filing of a belated declaration; 4) a petition pursuant to 37 C.F.R. §1.136(a) for a three-month extension of time to effect timely filing of the response to the Notice, the accompanying documentation and the petition under 37 C.F.R. §1.47(a); and 5) a check for \$920.00 for the three-month extension of time.

In the Decision Refusing Status dated March 19, 2002, the Petitions Attorney indicated that the Petition filed on November 26<sup>th</sup> was compliant with 37 C.F.R. §1.47(a) regarding 1) proof that the non-signing inventor could not be reached or refused to sign the oath or declaration after having been presented with the application papers, including the specification, claims, and drawings; 2) the petition fee; and 3) a statement of the last known address of the non-signing inventor. However, the Petitions Attorney indicated that the declaration filed for the application was defective. In particular, the Petitions Attorney indicated that the declaration contained defects pertaining to 1) the lack of citizenship designation for Dr. Pandit; 2) the claim for benefit under 35 U.S.C. §119(e); 2) the non-initialed and non-dated

changes made by the inventors; and 3) the improper citizenship designation for Dr. Del Mastro. The Decision Refusing Status indicated that a request for reconsideration was required to address and correct these deficiencies.

In response to the Decision Refusing Status, Applicants have submitted herewith combined declaration and power of attorney documents signed by Tim KEITH, Randall LITTLE, Paul VAN EERDEWEGH, Josée DUPUIS, Richard DEL MASTRO, Jason SIMON, and Kristina ALLEN on behalf of themselves and also on behalf of the non-signing inventor Sunil PANDIT in accordance with 37 C.F.R. §1.47(a). It is believed that the executed declaration is fully compliant with 35 C.F.R. §§115 and 116, as well as 37 C.F.R. §§1.63 and 1.67. In view of the Request and executed declaration submitted herewith, Applicants respectfully request reconsideration of their Petition under §1.47(a).

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fee(s) which may be required for this Petition under 37 C.F.R. §1.47(a), and accompanying papers, or to credit any overpayment, to Deposit Account No. 13-4500, Order No. 2976-4039US1.

Respectfully submitted,

MORGAN & FINNEGAN, LLP

Dated: July 18, 2002

By: 

Caryn DeHoratius  
Registration No. 45,881

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